

REMARKS

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

Claims 1, 8, and 9 have been canceled. Amended claims 2-7 and 10, and new claim 11 are in this application.

Claims 1-4, 6, 7, and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al. (U.S. Patent No. 5,758,257).

Independent claim 1 has been canceled. New independent claim 11 is presented herein from which claims 2-4, 6, 7, and 10 depend. New independent claim 11 recites in part the following:

“wherein said virtual channel guide creating means **gives priority to the number of programs manually selected by the user** in creating the virtual channel guide such that **the manually selected number of programs are arranged in the virtual channel guide prior to arranging any other programs therein.**”
(Emphasis ours.)

It is respectfully submitted that Herz as applied by the Examiner (hereinafter, merely “Herz”) does not specifically disclose the above feature of claim 11. Although Herz briefly mentions that “the channels may be reprioritized...”, Herz does not appear to disclose creating a virtual channel wherein programs manually selected by a user are given priority such that the manually selected number of programs are “arranged in the virtual channel guide prior to arranging any other programs therein,” as in claim 11. Accordingly, it is believed that claim 11 is distinguishable from Herz.

Claims 2-4, 6, 7, and 10 are dependent from independent claim 11 and, as such, are also believed to be distinguishable from Herz for at least the reasons previously described.

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (5,758,257), in view of Hodge et al. (U.S. Patent No. 6,564,381).

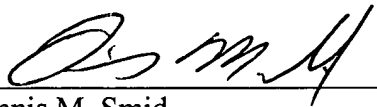
Claim 5 depends from independent claim 11 and, as such, is also believed to be distinguishable over Herz for at least the reasons previously described. The Examiner apparently does not rely on Hodge to overcome the above-described deficiencies of Herz. Accordingly, it is believed that claim 5 is distinguishable over the applied combination of Herz and Hodge.

In the event, that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
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